

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**LINEHAN:** [RECORDER MALFUNCTION] Elkhorn, Nebraska. I represent Legislative District 39 and I serve as Chair of this committee. The committee will take up the bills in the order they are posted outside the hearing room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. We do ask that you limit or eliminate handouts. If you are unable to attend a public hearing and would like your position stated for the record, you may submit your position and any comments using the Legislature's website by 12 p.m. the day prior to the hearing. Letters emailed to a senator or staff member will not be part of the permanent record. If you are unable to attend and testify at a public hearing due to a disability, you may use Nebraska's Legislature's website to submit written testimony in lieu of in-person testimony. To better facilitate today's proceedings, I ask that you follow these procedures. Please turn off your cell phones and other electronic devices. The order of testimony is the introducer, proponents, opponents, neutrals, and closing remarks. If you will be testifying, please complete the green form and hand it to the committee clerk when you come up to testify. If you have any written materials that you would like to distribute to the committee, please hand them to the page to distribute. We need 11 copies for all committee members and staff. If you need additional copies, please ask a page to make copies for you now. When you begin to testify, please state and spell your name, both your first and last name for the record. Please be concise. It is my request that you limit your testimony to five minutes. We will use the light system. You have four minutes on green, one minute on yellow to wrap up, and on red you will be asked to finish. If there are many wishing to testify-- I don't think we have a problem today. If your remarks are reflected in previous testimony or you would like your position to be known but we do not wish to testify, please sign the white form at the back of the room and it will be included in the official record. Please speak directly into the microphone-- our trans-- so our transcribers are able to hear your testimony clearly. I would like to introduce committee staff: to my immediate right is legal counsel Lyle Wheeler; to my immediate left is research analyst Charles Hamilton; to my left at the end of the table is committee clerk Tomas Weekly. The committee members with us today will introduce themselves, beginning at my far right.

**KAUTH:** Kathleen Kauth, Millard.

Transcript Prepared by Clerk of the Legislature Transcribers Office

Revenue Committee January 27, 2023

Rough Draft

**MURMAN:** Senator Dave Murman from Glenvil, District 38, represent eight counties along the southern border in the middle part of the state.

**von GILLERN:** Brad von Gillern, Legislative District 4 and west Omaha.

**ALBRECHT:** Hi. Senator Joni Albrecht, District 17: Wayne, Thurston, Dakota, and a portion of Dixon County.

**DUNGAN:** Senator George Dungan, LD 26, northeast Lincoln.

**LINEHAN:** This afternoon our pages are, if they would please stand, thank you ladies, our pages are Amelia, who's at UNL and she's a senior studying political science, and Caitlyn--

**AMELIA STONER:** Had to go make copies.

**LINEHAN:** OK. Caitlyn has to go make copies. Caitlyn, the other one who will be here is also from UNL and a junior studying political science. Please remember that the senators may come and go during our hearing as they may have bills to introduce and other committees. Refrain from applause or other indications of support or opposition. For our audience, the microphones in the room are not for amplification, but for recording purposes only. Lastly, we use electronic devices to distribute information. Therefore, you may see committee members referencing information on their electronic devices. Be assured that your presence here today and your testimony are important to us and is a critical part of our state government. And with that we will open on LB29. Welcome, Senator Erdman.

**ERDMAN:** Thank you, Chair Linehan. I appreciate it. I appreciate the fact that you've moved me up in the hearing schedule. I appreciate that as well. I am Steve Erdman. I represent District 47, which is nine counties in the Panhandle and I won't name those for the sake of time. I'm here today to introduce to you LB29, which is a revision or clean up on a bill that I introduced back in 2019. And the bill in 2019, the Bill Drafters probably didn't do me any favors when they called it destroyed property. So the goal today is to clear up the definition and change the destroyed property definition to damaged. And I have an amendment, I'd like to have them-- the page pass out if she would and we'll talk about the amendment in a minute. But for those of you new to this subject, let me give you a little history. When I became a county commissioner years ago, one of the first things that happened was a lady came to protest her valuation and what had happened to her property, her house had burned down on January the

Transcript Prepared by Clerk of the Legislature Transcribers Office

Revenue Committee January 27, 2023

Rough Draft

2nd, and she came in to protest the valuation because it was completely destroyed. And I had thought that was a great idea, that we would give her the value of what the land was and whatever else she had left. And I was informed by the assessor that you had to qualify that by saying she had to pay the property tax for the full year because it was 12:01 a.m. on January 1. So I thought if I ever had an opportunity to fix that, I would try to fix that. So in '19, I introduced the bill to have it go until October 1. And in the meantime, Senator Chambers filed a request with the Attorney General to figure out if that was constitutional. After we got the report back from the Attorney General, it showed that because of when they set the valuations and the mill levies, that we could not go until October and we had to back it up until July 1. So what the bill says is before July 1, if your property is damaged in the excess of 20 percent or more, you can file a, an affidavit with the assessor and they will review your filing to see that if your property is damaged to that degree, and then your value will be whatever is left after the damage occurred. And so that was the intent of the law. It was a very, very popular bill on March 19, March 19 is when the flooding happened and there were numerous people asking about the bill after that happened. So this committee was-- had the foresight to pass the bill to the floor, the bill was advanced from the floor and it was signed by the Governor. It was the intent of the bill to give taxpayers a break on that property that had been destroyed. Consequently, there were people, there are people who serve in county government who think more of their tax dollars than they do of their constituents. And so we had several commu-- several counties' board of equalization deny, they denied a request for a reduction in value. And it's because in the bill that we had written, it said that it was a calamity and the calamity was described or defined. And they said because what happened to your property wasn't a calamity, it was because of the peaceful protesters. OK, get that. The mayor of Lincoln said those people were peaceful protesters that burned down the insurance bill. And so that group applied for assistance for relief from their valuation, and they were denied because it wasn't a calamity. So today, what I bring before you is LB29 and LB29 does several things, but, most importantly, LB29 is trying to shore up the legislative-- Legislature-- legislative statement in such a way they can't circumvent what we're trying to do. And basically what we're trying to do is if your property is damaged 20 percent or more, you file a form with the county assessor, the assessor evaluates your property, and then they make a presentation to the county board of equalization. And the county board of equalization then determines whether your property

is damaged at 20 percent or more and the value will remain at that level until you have either refurbished it or done something other to increase the value. So that's what it is. So the amendment that I handed out, if you want to look where it fits in, if you turn to page 4, page 4, line 11, the following words will be inserted and it'll read as follows: The county assessor's report shall be made on the form prescribed by the Tax Commissioner and shall include all reports filed under this section by the property owners. The goal here is to make sure that when the county assessor submits her report or his report, they also submit to you the report from the landowner to see if there is a difference or not. And so I don't want the county assessor coming in and saying there's only 10 percent damage when in fact there may be 20. Now the issue that we have, and we spoke about this the other day when I was here, the issue we have, if you don't agree, if you do not agree with the county assessor and the board of equalization, guess where you appeal that to? TERC. OK. So now we're talking about something we spoke about beginning of this week. And so those are the issues we're dealing with. So as you look at that, and then if you look at the fiscal note, and I thought it was very interesting the information that was put on the fiscal note and, and I might bring your attention to that, the first page of the fiscal note, it talked about the LB, LB29 changes the term "destroyed" to "damaged" real property when assessed values can be adjusted. Additionally, the bill adds other events causing significant property damage like fires, earthquakes, floods, tornadoes, and already provide for tax relief by the owners of real property affected by and listed, and listed events. So what had happened is we had the-- you'll see we struck the, the, the definition of calamity and put in the, the opportunity for people to have an opportunity to have their value adjust-- valuation adjusted. And there is a gentleman from Knox County, his house burned. It was nearly completely destroyed. And because it wasn't a natural, a natural calamity, he didn't get any relief at all. And all that was left was the shell. So I thought it was kind of interesting that if you read down further in the, in the, in the fiscal note, the Douglas County and Lancaster County Assessors estimate little, little or no impact to this bill. And then it goes on from NACO, the NACO statement is: The Nebraska Association of County Officials estimate that storms or damages occurring in late June would require additional staffing by counties to complete the reports by July 20. And so if you turn over to the comment in the fiscal note from the Douglas County Assessor, I thought it was very interesting the last couple sentences, and it would be like the fourth page in, it says: Several years ago-- this is the Douglas County Assessor's comments, several years ago, in the wake

of the flooding in eastern Nebraska, there were 54 such claims but in 2022 there were only seven. Here's a very significant statement: Our office believes that we can perform the duties required by the bill with the existing staff. And it goes on to say: No letter-- no fiscal impact on this office. So you will hear today from NACO and they'll be in opposition to the bill. And I could actually give their testimony if you wanted me to, but I'll wait for Jon Cannon to do that. But evidently, the Douglas County Assessor didn't get the memo from NACO and what you're supposed to testify on. The intent of the bill, the intent of this legislation is to take into consideration those people who have had something happen that's catastrophic to their property and they get no relief. But when you're the county, the city, or whatever it is that collects taxes, you don't want to give that up. And so they'll-- you'll hear about when you have a major catastrophe, the county or the city or the school could be short of funds. Take into consideration what happens to those people who lose their homes. Is that kind of a shortage? Do they have things they have to pay for? They take total disregard for the fact that those people lost, may have lost everything, but you still have pay your property tax. So what I'm asking today is forward this bill, bring it in, bring it in your Christmas tree bill or put it on a consent calendar or whatever, how you can get it there. But we need to give these taxpayers some relief, and this is the way to do it. So I'd open that to any questions you may have. And yes, I will stick around to close. Thank you.

**LINEHAN:** Thank you, Senator Erdman. Are there questions from the committee? Senator Dungan.

**DUNGAN:** Thank you, Chair Linehan. Thank you, Senator Erdman. Just looking over this, and I appreciate your explanation of the intention behind that, I think it clarified some questions that I had. From just a reading of the statute by striking the definition of calamity and then also striking, striking the requirement of a calamity in the definition of damage, does this contemplate or allow for somebody to claim that their property has been damaged by dilapidation?

**ERDMAN:** No, it does not.

**DUNGAN:** Because there's, there's nothing in here that requires an intentional damage or anything like that. And so it would seem to me that if property became dilapidated and then because of the lack of upkeep or the lack of care, let's say a stairwell or something collapsed and that exceeded 20 percent of the property valuation so

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

therefore it was damaged, but not because of any kind of calamity.  
Would they be exempt from paying property taxes on that?

**ERDMAN:** The prop-- the bill says anything that's not your cau-- you didn't cause. OK? So if you burn your house down, you're not eligible. So if you don't keep your house up, that would be in the same vein as burning your house down. You haven't done what's necessary to maintain your property. So I don't believe, I don't believe that's the case. But you know what? I can't think like these people who want to continue to collect taxes from people who can't pay them because they've had something happen. I don't think in that realm, I think of in the realm that I was in when I was county commissioner, I looked out for the people who are paying their taxes. Let's give them a fair and equal shot at what they're doing. And so I spent that tax dollars when I was county commissioner like it was my money. And that's the way I looked at it. And I would hope that county commissioners and board of equalizations do that. But it's quite obvious from the decisions that were made in the last couple of years, that's not the case with everybody, including Lancaster County.

**DUNGAN:** So it's your interpretation then, and I, I think I agree with you that a lack of care would be caused by the owner--

**ERDMAN:** Correct.

**DUNGAN:** --in that circumstance so it's covered by that.

**ERDMAN:** I agree.

**DUNGAN:** Thank you.

**ERDMAN:** Thank you.

**LINEHAN:** Thank you, Senator Dungan. Senator von Gillern.

**von GILLERN:** Senator Erdman, thank you. Just a quick question. I, I, I know that are standards for county appraisers for valuing current and existing properties. What would the standards be for, for valuing a damaged property? Because there could be a great discrepancy in, say, house burns down, the foundation is still standing, there's a value to that, but the structure's gone. Are you confident that this is not going to lead to, to claims back and forth? Is there, is there a procedure in place for, for valuation?

Transcript Prepared by Clerk of the Legislature Transcribers Office

Revenue Committee January 27, 2023

Rough Draft

**ERDMAN:** There'll be a negotiation on what the value is and so there'll be a report done by the landowner. The property owner will submit a report, whether it's an appraisal, or however they arrived at that value, the assessor will then go out and assess what the property is. And then those two have to get together to agree what is, what is the value. And as I mentioned earlier, if you don't agree, you still have an appeal process. You can take that to TERC. And so what generally happens, you take it to TERC and TERC denies your request, then you take it to court. And that's where some of these have wound up. They've wound up in court. And so the intent-- some of these people need to read what the intent of the bill was before they start making decisions about what's a calamity and what isn't. They didn't do that. And as I said earlier, they take no consideration for those people paying.

**von GILLERN:** Thank you.

**LINEHAN:** Thank you, Senator von Gillern. Other questions from the committee? Seeing none, thank you, Senator Erdman.

**ERDMAN:** Thank you.

**LINEHAN:** Um-hum. Proponents? Good morning-- good afternoon.

**JESSICA SHELBURN:** Good afternoon, Chairman Linehan and members of the Revenue Committee. My name is Jessica Shelburn, J-e-s-s-i-c-a S-h-e-l-b-u-r-n. I'm the state director of Americans for Prosperity Nebraska. As one of the largest grassroots organizations in the nation, Americans for Prosperity is dedicated to bringing people together to change government and public policies for the better. We strive to create an economy that works for all empowering people to earn success and realize their potential. Unfortunately due to the excessive taxation, every level of government in Nebraska it is becoming more difficult for individuals to get ahead even after all the work that the Legislature and the former administration has done to provide relief, especially when it comes to property taxes, and it continues to be a significant burden on the residents of our state, and it even drives people out of our state. We appreciate Senator Erdman and his efforts to rectify this situation and paying that full valuation property taxes that are levied on you when your home is not livable or when it's had over 20 percent damage is a significant burden for a lot of Nebraskans. And we appreciate his efforts in doing this. And would hope that you guys would support this and send it out to the floor for further consideration.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**LINEHAN:** Thank you, Ms. Shelburn. Is there any question-- are there any questions from the committee? Seeing none, thank you much for being here.

**JESSICA SHELburn:** Thank you.

**LINEHAN:** Are there other proponents? Good afternoon.

**LUKE VAVRICEK:** Good afternoon, Chairwoman and other members. My name is Luke Vavricek, L-u-k-e V-a-v-r-i-c-e-k. Senator Erdman stole most of my thunder and told my story already, but it's not really my story. I'm an attorney here in Lincoln, Nebraska, and one of my clients is Inland Insurance Company. And I'm sure we can all remember that the summer of the year 2020 was tumultuous times. The-- my client's building burned down. It's completely not worth anything after that incident. And we tried to seek the relief that was in the original statute, and we were denied that relief, as Senator Erdman alluded to, because the argument before the county board by the county attorney's office here in Lancaster County was, well, this was arson. This wasn't a natural event, natural disaster or calamity. So you don't qualify. And I don't believe that someone shouldn't qualify when they had nothing to do with the event that destroyed their property, whether it was by a lightning bolt hitting their house or someone else burning it down. Either way, I don't see the legal reason for awarding one person relief and not the other. I think as long as the owner didn't caused the damage, they should be entitled to the relief that, as Senator Erdman alluded to, was intended by the statute. And the original statute made that clear by excluding, excluding damage caused by the owner. And to, Senator Dungan, your, your question to Senator Erdman, if I may. I think also to, to that point about it being kind of naturally occurring over the course of time, the statute also says that damage to real property means real property that suffered significant property damage on or after January 1 and the below July 1. I think the damage you were talking about would occur over a much longer period of time. So for that reason also, I don't think that would be a concern. So we're currently still fighting that fight. It's right now pending before TERC. We had our hearing on that last September. We perfected that appeal to TERC in August of 2020 and we had resolution for that. So we support this. We think it ideally it would have not been necessary. I think in plain language reading would have supported the relief we saw already, which is why we appealed. But we support this amendment. And if there's no questions, that's all I have to say.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**LINEHAN:** Thank you very much. Are there questions from the committee? Since this is public record, I going to ask what was the property taxes owed due? Do you remember?

**LUKE VAVRICEK:** Oh, I don't, I don't remember it off the top of my head, but it was after the appeal. It wasn't adjusted at all. And if my memory serves, [INAUDIBLE]--

**LINEHAN:** You can correct it if it's not correct.

**LUKE VAVRICEK:** OK. If memory serves, it was increased the following year.

**LINEHAN:** Increased?

**LUKE VAVRICEK:** Yes. And I think, I think it was in the 100-some thousands for land. And I don't remember what the building was. But again, I should have looked at that before I came so I apologize.

**LINEHAN:** That's OK, you can get it to the committee later. It's fine.

**LUKE VAVRICEK:** OK.

**LINEHAN:** That's fine. Are there any other questions? Seeing none, thank you very much for being here. Appreciate it very much.

**LUKE VAVRICEK:** Thank you.

**LINEHAN:** Are there other proponents? Are there any opponents?

**JON CANNON:** Chairwoman Linehan, distinguished members of the Revenue Committee, good afternoon. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of NACO, here to testify today in opposition to LB29. First, I, I, I do want to commend Senator Erdman for something really remarkable that he did four years ago when we passed LB512, and I'm going to say, I'm going to liberally use the liberal sense of the word "we" and I'll-- because you guys that advance it from committee, it was the Legislature that, that ultimately passed it and sent it on to the Governor for his approval. But-- and, Senator Linehan, you and I were involved in the negotiations on this when this was out on the floor, especially the day after the floods or the first Monday after the floods, and I had a small part, helped with drafting, talked to a lot of people to make sure that they knew that NACO was, was behind the passage of LB512. When I say it's remarkable, I will tell you that for 100 years we've

been dealing with this issue. We've been dealing with the issue of damaged or destroyed property. And there have been many instances where people did not-- simply did not receive relief because the legal regime that we had in place said you couldn't do it. After Hallam, the Hallam tornadoes, after Pilger was-- about half that town was wiped off the map, there are a lot of people that asked for relief and they could not get it because we had not put the proper terms in place. But the way we get there is, is what I'd like to talk about, and, and I'm going to, to visit about equalization. And again, since there are several new members on the committee, I think it's, it's worth our time. And so I'll, I'll go through and please bear with me. And if I do run out of time, I'll apologize. But equalization comes from Article VIII, Section 1, of the Nebraska Constitution, it says: taxes shall be levied by valuation, uniformly and proportionately upon all real property and franchises. And then it goes on to say that: the Legislature may prescribe standards and methods for the determination of the value of real property. Several court cases have expounded on this to give us an idea as to what, what exactly the constitution means. Constructors Inc., for instance, it talks about how we have to have a uniform standard of value. That's one of the things that's required under uniformity. Sarpy County v. the State Board, you have to have a reasonable attempt at uniformity throughout the classes. State ex rel. Meyer v. O'Neill [SIC--Story] says that the establishment of two methods of valuation of property results in wants of uniformity. It would be per se unconstitutional. However, that court went on to say unless the separate classification rests on some reason of public policy that would suggest the justice or expediency of diverse legislation. And so I feel like I'm making Senator Erdman's argument here. But with this bill, we get a little bit further afield, right? Justice and expediency when you have a tornado, you have a calamity of some sort, that seems to meet the intent of the bill. And, and I should know, I helped, I helped do some of the drafting on it. Damaged property is a little bit less certain, particularly when it gets a bit more nebulous in its definition. And so I think what we did four years ago was remarkable and the Revenue Committee and the Legislature should be rightly commended for doing that. My concern is that when we start to unmoor ourselves from something that is more easy for us to grasp where we can say justice and expediency demands this, I'm concerned. I, I frankly, I think, I have a very reasonable concern that the regime that we have set up to provide that sort of relief to our taxpayers is going to be considered unconstitutional. And, you know, you've got committee counsel. I know they can go through the, the, the cases I just mentioned, but damaged property,

it's a, it's a bit more nebulous of definition. And so when you have a pandemic and all of a sudden people aren't shopping as much and so my, my receipts are down. Is that economic damage? If I can show economic damages under the income approach, does that mean that I, I should be entitled to relief? And on that note, I should say, by the way, we use three different approaches to property typically when we're valuing land or, or real property. We have an income approach, we have a market comparison approach, we have a cost approach. And under an income approach, you could probably show some sort of decrease in value. I'm not sure that you'd be able to show the same for a market approach or for a cost approach. If you had boycotts, some sort of economic factor which was causing a, a reduction in your receipts. Would that be considered damages? You could certainly make that argument under this bill as it's written. I will note the young man that, that visited as a proponent for this bill, he talked about how the property at Inland Marine [SIC] Insurance Company kept its value. However, I will note that in subsequent years, including this year, they have a zero building value on that property. And so what, what we do by having a standard, a uniform standard for valuation is certainly things are going to happen after that January 1 valuation date, which we have had in the state for a long, long time. However, that's going to be made up on the back end. And I promise you that if I have a calamity that, that hits my house on, on or after, after January 1 of, of any particular year, when I start construction again in the following year and I have that zero value, I'm prob-- I'm out of time. I'm sorry.

**LINEHAN:** Thank you. Are there any questions from the committee?  
Senator Briese.

**BRIESE:** Thank you, Chairman Linehan. Thank you for your testimony here today, Mr. Cannon. But under existing statute, isn't destroyed property defined as something that suffers significant property damage and significant property damage defined as something that sustains damage exceeding 20 percent?

**JON CANNON:** As a result of a calamity, yes, sir.

**BRIESE:** Yes. And changing it from destroyed to damaged that doesn't really do anything, does it?

**JON CANNON:** I believe the definition would take out as a result of a calamity.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**BRIESE:** Yes, that, that's, that's the issue there. And why should we distinguish between a calamity and the example of arson?

**JON CANNON:** I, I think that--

**BRIESE:** What's the distinction there from your standpoint?

**JON CANNON:** Well, I think that if you're able to say that we have an act of God, something that no, no person could reasonably have foreseen, that is something that, that if I'm-- and I certainly don't want to speak for the Supreme Court, they're the ones that, that issue my license to practice law, but if I'm the Supreme Court, I think I look at that and say I can grab onto that. I can say that the justice and expediency demand diverse legislation on this subject. For something like arson, I'm not so sure. If, if I'm in a really bad part of town and the rate of arson is pretty high, you know, I guess that, that's something that, that someone could reasonably foresee. I, I, I can't give you much better than that, other than to say, I think there's a distinction there. I, I think the fact that we have had a distinction based on something that is frankly an act of God is something that the Supreme Court is able to hold on to. And they're able to say, yes, that demands diverse legislation.

**BRIESE:** I would tend to disagree. I think it's a distinction without a difference, really. But anyway.

**JON CANNON:** Yes, sir. I, I appreciate that and it's a conversation I'm willing to continue.

**BRIESE:** Sure. Thank you.

**JON CANNON:** Yes, sir. Thank you.

**BRIESE:** Thank you, Senator Briese. Are there other questions from the committee?

**LINEHAN:** So I'm going to go back to you. So the, the building that's now getting built,--

**JON CANNON:** Yes, ma'am.

**LINEHAN:** --is at zero for the building?

**JON CANNON:** It is it zero.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**LINEHAN:** This doesn't really pertain to this bill, but since you're here. Why is that? Why is when a piece of dirt is dirt and then it takes three years later, there's a \$5 million building lying around. How is-- how come there is no adjustment upward during the whole process?

**JON CANNON:** I-- and I'm not the Lancaster County Assessor. I can't really speak for them. But what I, what I can say is my expectation in all likelihood is, is probably because construction hasn't completed yet.

**LINEHAN:** Well, I think there's-- this is something I would like you to take back to NACO and see if you can bring the committee an answer. I do not understand when we have farmland turns into lots, that turn into \$75,000 lots, that turn into houses that take two years to build that turn into \$2 million houses, why that property, as long as the developer owns it, it's left at basically farmland prices? And not until a homeowner has it for a year, they have taxes kick in. I don't understand that.

**JON CANNON:** Oh, well, I, I can answer that, ma'am. So several years ago we passed a bill and I want to say it's LB191, I could be wrong, but what I think most the assessors refer to it is as the developers discount. And so what--

**LINEHAN:** I think you've answered a question.

**JON CANNON:** Yes, ma'am.

**LINEHAN:** What year was that?

**JON CANNON:** I, I could hazard a guess. It'd probably be at 2014 ish, '15, somewhere around there.

**LINEHAN:** OK. Thank you very much.

**JON CANNON:** Yes, ma'am.

**LINEHAN:** OK. Other questions from the committee? Thank you.

**JON CANNON:** Yeah, thank you.

**LINEHAN:** Are there other opponents? Is anyone wanting to testify in the neutral position? OK, letters for the record, we had two proponents: Andrew Dunkley from Lincoln, and-- I don't know, Douglas

Dulce [PHONETIC] from Lincoln, both proponents. Senator Erdman, would you like to close?

**ERDMAN:** Thank you. Interesting, interesting testimony. And I think you listened to the attorney for the building said that the value was raised the next year before it went to zero. So in '19, my friend Ernie Chambers stood in front of me, Senator Chambers, and when I introduced this he turned around and said your bill is unconstitutional. And I said, Senator Chambers, we pass things here and you have voted for things here that are unconstitutional and they won't be declared unconstitutional until some court says they're unconstitutional. And he said, just wait. So what he did, he made a request to the Attorney General for an Opinion. And you may remember he spent two five, two five-minute sessions reading the Attorney General's Opinion on this very bill. Let me state a couple of things that the Attorney General said about this. He said that even though the court should find that AM1217, which was the amendment, creates a separate classification for taxation purposes, an argument could be made that a separate classification for real property destroyed or damaged substantially is different, is a different situation or circumstance, and so as to justify separate classification. It went on to say a number of other states have enacted legislation to provide tax relief to certain property owners whose property is damaged. We note that at least two other states, Oregon and California, have a constitutional provision which specifically authorize a differential treatment of damage or destroyed property. So the Attorney General has seen this. And if he would have thought that there was some kind of substantial constitutional problem, he would have noted that. He did not. So to come here and say this is unconstitutional, we're violating some kind of provision of classifying land differently, the Attorney General would have said something. So what I'm here to tell you is it's time for us to take into consideration those who pay the taxes, those who are put in a position that they don't have something left and they have to renew it or rebuild it and put them in first place. The counties, the city, and the school will all-- they'll make it. They'll get through it. They have money that they can work with and make it work. So as I said before and, and let me just clarify this: personally, I don't believe that Jon Cannon believes that this is a bad bill, but he works for NACO. I understand that. Jon is a respectable guy, and I appreciate always having a conversation with him. But I've served on the NACO board. OK? It's the most peculiar board I've ever served on in my life. You have a mixture of those who are labor, the assessors, the clerks, the treasurers, and at the same

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

boardroom, you have the commissioners. So what we have is management and labor setting policy. You tell me of a business in this world that has management and labor both able to make a decision about policy. That business won't exist long. That's the way NACO functions. So when he comes in and testifies, he's coming in because a majority of the board voted that they should do that. And you got to remember, that board's probably 21 people, there's 11 commissioners and 10 elected officials. It only takes one or two of those commissioners to side with the elected officials and then they get the opinion that NACO has when they come against my bills. So remember that. I tried to change that. When I was on NACO, I tried to make those officials ex officio nonvoting members. They threw me out. They pulled the Ernie Chambers' amendment and they put in place that I could not come back in and be chairman again. I understand that. So take into consideration when NACO comes and testifies against my bills, it's not necessarily Jon Cannon and it's not necessarily the commissioners. OK? So that's where we're at. That's the truth. If you want to see a copy of the Attorney General's report, I have it. So I would ask you to advance this to the floor and let's give some relief to those people who've suffered much because of a fire or the peaceful protesters burned their building down. Thank you.

**LINEHAN:** Thank you, Senator Erdman. Are there questions from the committee? I would appreciate it if you'd get a copy of the Attorney General's Opinion to staff and they could share it with the committee.

**ERDMAN:** We can get it.

**LINEHAN:** And are you saying they term limited you in NACO? They term limited you? They term-- they [INAUDIBLE] term limits?

**ERDMAN:** Well, what happened was-- Senator Linehan, what happened was they have a situation where you're second vice president, you know, you move through the chairs and then you're past president. I was up for election to come back in as second vice president. So four years later, I would have been the chairman again. And I told them not to do that. I said, what you should do is just pass a motion that Erdman can't succeed himself because the next vice-- next past president, you may want them to come back and you've now circumvented that so they can't. Well, they threw me out and voted not to let anybody come back in again. So when you try to eliminate them from voting and most of the members are elected officials, like 300 and some commissioners and 1,300 other people, how many votes do you have?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**LINEHAN:** I get it.

**ERDMAN:** So that's what happened.

**LINEHAN:** OK. Thank you very much for being here.

**ERDMAN:** Thank you.

**LINEHAN:** Appreciate it. That'll close the hearing on LB29 and we will open the hearing on LB154. Welcome, Senator DeBoer.

**DeBOER:** Good afternoon, Chair Linehan and members of the Revenue Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, and I represent District 10 in northwest Omaha. I appear today to introduce LB154 which requires mailing of notice for tax sale deeds. I've introduced LB154 at the request of the State Bar Association and attorneys who practice in the area of real estate and title. This is a reintroduction of LB1005 from last year. The bill is offered in response to a suggestion made in a concurring Opinion from Justice Cassel in the Nebraska Supreme Court Opinion in HBI, LLC v. Barnette from 2020. In the lengthy Opinion from the court in that case, the court considered Nebraska's statutory scheme surrounding tax sale deeds and whether the process in statute is sufficient to protect the rights of the property owners. Specifically, the court considers Nebraska's statute with respect to when, when title to the property is taken via tax sale deed and the owner of the property is served notice of the proceeding only by publication in a newspaper rather than by personal service. While the court is unanimous, was unanimous in its Opinion that the process is constitutionally sufficient, Judge Cassel offered a concurring Opinion in which he opined that the case and its confusion may well have been avoided by a simple requirement that a copy of the published notice be mailed to the owner after publication. Member of the-- members of the NSBA's real estate, probate, and trust section read the Opinion and agreed that the change was not only a simple one that might provide actual notice to a property owner before they lose title to their real estate, but also noted that it conforms with what is required in nearly every other case where service is made by publication. For the sake of consistency in service statutes and with an eye towards ensuring that property is not unnecessarily taken from an owner without first giving them every reasonable opportunity to redeem their unpaid property taxes, I offer LB154. After the introduction of this bill last year and again this year, I heard from a few companies who operate in the world of tax sales certificates who objected to the mailing period arguing that five days was not enough

Transcript Prepared by Clerk of the Legislature Transcribers Office

Revenue Committee January 27, 2023

Rough Draft

time. We came to an agreement this morning on an amendment that would extend the mailing period to ten days after the receipt of the affidavit of publication, and we do not yet have that amendment drafted since it was just this morning, but I'll get it to the committee as soon as it is drafted. My office further received feedback from NACO and we are-- will address that concern in the amendment as well. That portion will add a reference to Nebraska Revised Statute 77-1831 so that county treasurers know about the notice requirements in this bill. So again, I'll share both of those amendments with the committee as soon as we get those back. There's an attorney here on behalf of the NSBA that will be happy to answer any technical questions you might have, but I'll also be happy to answer any other questions that you may have. I think this one has worked out with everybody being OK with it and would just really what it would do is if you are using constructive service or you're, you're publishing in the newspaper, this is going to happen. This would add the requirement that after the publication you also send basically that newspaper clipping to the house so that the person has yet one more opportunity to realize that they are going to have their title transferred. And so thank you for your consideration. And I ask the committee to advance LB154 to the floor.

**LINEHAN:** Thank you, Senator DeBoer. Are there questions from the committee? Senator Kauth.

**KAUTH:** Thank you, Chairwoman, Senator DeBoer. So someone would not have received a personal notice that they were going to have this happen to them?

**DeBOER:** Possibly not.

**KAUTH:** OK.

**DeBOER:** So if the company-- there's sort of like first tier, you're supposed to give them, you know, the personal notice. If you've gone through this and you can't, you can't notify them, then the requirement-- and this is in other civil cases, not just this sort of thing, is that you put it in a publication of the area and this would just add the additional step that once you put it in that publication, you send a letter of that publication to them.

**KAUTH:** At that point, would they have any recourse to stop the sale?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**DeBOER:** Yes. And I'm going to let the gentleman who has the more technical stuff explain. But they would-- there is still a period of time in which they would have to respond to that.

**KAUTH:** OK.

**DeBOER:** So that's why we thought this extending of the period of time would work out, because there would still be a period of time for them to respond.

**KAUTH:** OK. Thank you.

**DeBOER:** Yeah.

**LINEHAN:** Thank you, Senator Kauth. Senator Bostar.

**BOSTAR:** Thank you, Chair Linehan. Thank you, Senator DeBoer. Can you further elaborate on the amendment and sort of what was the issue with your initial text and how does the amendment solve it?

**DeBOER:** Yeah, so initially we said five days after they would have sent the publication in for the first time, but this goes in the newspaper three times. So maybe if it's a weekly, it would be three-- over a three-week period of time. So then five days, you're still publishing it. You haven't even finished publishing it. And they don't have the receipt of publication so the, the companies were concerned that they would not be able to say we have fulfilled the publication requirements until they've finished all three weeks.

**BOSTAR:** And this is just sending a notice to hopefully to the, the property owner.

**DeBOER:** Correct.

**BOSTAR:** And there-- they would be sending the receipt of publication to them.

**DeBOER:** No, they don't send the receipt of publication. They're sending the notice, but they wanted to--

**BOSTAR:** Why-- so what's the challenge in sending the notice?

**DeBOER:** I believe they will be here to testify in the neutral capacity, and they would probably be willing to answer your question.

**BOSTAR:** I'm very eager to find out.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**DeBOER:** OK.

**LINEHAN:** Thank you, Senator Bostar. Senator Albrecht.

**ALBRECHT:** Thank you. And maybe you can't answer this and maybe somebody coming behind you. But so let's say that they're losing their property because they haven't paid their taxes, right?

**DeBOER:** So their tax-- so at some point they haven't paid their taxes, the tax liability was bought.

**ALBRECHT:** Um-hum. OK, so-- because it's kind of making me think about some other legislation that we've had where the person could be out of state or could be in a nursing home or their children are taking care of things or their banker or their attorney or somebody else. So how would they know if they don't know or how would you know where you're going to send it if somebody isn't paying attention to--

**DeBOER:** So we addressed this, and I'm trying to remember if it was '19 or '20, we did some work. Senator Williams had a bill on this on tax sale deeds. At that time we came to the scheme that we have now. We're adding an additional notice requirement. I'm not saying they'll actually get noticed. I'm not saying it will solve every problem. I'm saying there's a few cases in which this will help. So if we're looking for a larger scale solution, this is not it. This will just help in some cases. So it's an additional step to try and catch a few more people to make sure that they have actual notice that their property might be sold out from under them.

**ALBRECHT:** Thank you.

**LINEHAN:** Thank you, Senator Albrecht. Are there other questions from the committee? Seeing none, will you stay to close?

**DeBOER:** I will try.

**LINEHAN:** OK. Thank you. Proponents?

**ROY HAHN:** Senator Linehan and members of the committee, my name is Roy Hahn, R-o-y H-a-h-n. I'm a member of the Nebraska State Bar Association and the real property trust committee that advanced this bill last year. And here we are bringing it back to you again. This Legislature for over the last decade has spent numerous opportunities to make the tax sale process fair for the landowner. The last opportunity you had was in 2019, Senator Williams' bill, which was

Transcript Prepared by Clerk of the Legislature Transcribers Office

Revenue Committee January 27, 2023

Rough Draft

LB463, made significant changes to make the tax sale process fair. This is one additional move that we now make to make the process even fairer, which relates to mailing notice of a copy of the publication. Now what I want to do is I want a lay out just real quickly as I can, what this tax process is all about so that you understand this. First Monday in March, the treasurers hold a sale, people appear and investors purchase the delinquent taxes. At that time, the treasurer gives that purchaser a piece of paper. It's called a tax sale certificate. That tax sale certificate is like the promissory note, but it has to be held for three years before it matures. At the end of the three years, what happens then is the owner of that certificate, which he has a lien on the property, has two choices. He can file a judicial foreclosure like any other lawsuit, or he can go through what we call the tax deed treasurer's process. The tax deed treasurer's process is well outlined in the law in Article 1800 [SIC]. Very detailed. Now if the taxes are not redeemed at the end of that three years, what that tax investor will do then, if he wants to go this process to get a tax deed, he has to give a notice which goes out to the landowner and all people of record. And that notice is detailed in the statute. We worked that over numerous times in the last decade. That notice from LB463 in 2019 has to be personally served, personal residence service on the landowner. That was the effect of LB463 in 2019. You can't always find the landowner. There's a lot of reasons for it, one of which he's a, he's a land-- owns the land and the land or the property is rented for example. If the landowner cannot be served residentially or personally, then what happens? He can-- the investor can choose to give notice by certified mailing. If that doesn't work, if in other words, if he can't get the landowner to sign that certificate of certified mailing, then the next step is publication in the newspaper. Now you're familiar with that, you see these, you see these newspaper notices all the time and all sorts of lawsuits and publication has to occur according to law for three times-- three consecutive weeks. And that's it. That's the way the law is now. What we're saying in this bill is at that publication, when the publication takes place, then a copy that has to be sent to the landowner. That's what this bill says. Just that. Nothing more. Now, I want to contrast that for lawyers here to the civil law that we have now. We've had-- the civil law under Chapter 25, which we've had since 1957, in all court proceedings and municipal proceedings, you need to mail a copy of that publication to all interested persons. So lawyers are familiar with this. Interestingly enough, the tax deed process has never included that. Why? Because the definition of the mailing under the civil law includes only courts, the municipal, municipal bodies.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

So it's never been required before. Now then, this area has received a lot of controversy the last several years, the landowners have been prejudiced because they didn't know about what was happening to the tax deed process. LB463 addressed that. And this is just another step to get to that point. In 2020, Nebraska Supreme Court had an, had an Opinion, the Barnette case. It was a controversial situation in which a landowner was aggrieved because he said he didn't receive notice. So in that Opinion, Judge Cassel said why, why don't we change the law and make this publication mailed just like our civil law is? That's what he said. That's what we're doing right here. Now, the, the issue here about the time frame of mailing, the Bar Association will accept that suggestion that Senator DeBoer just brought here. We-- the original bill, we said five days after the first publication, because that's what the civil law said. We just patterned after the civil law. Now this-- the bill, as amended, would have the notice be given publication in ten days and ten days after the last publication. We're agreement with that because we just want the notice to be mailed out. So we're agreeing with that position. And the reason we can agree with that is because under the tax deed process-- let me just finish this thought here-- under the tax deed process, 90 days has to elapse between the time of the end of the publication and the time that the owner of the tax sale certificate owner walks into the treasurer's office for a deed. So there's plenty time for a redemption to take place. And that's the reason we would agree to the ten-day time frame.

**LINEHAN:** Thank you, Mr. Hahn. Are there questions from the committee? Senator Kauth.

**KAUTH:** Thank you, Chairwoman. Are you aware of LB577? This seems to-- it's been brought by Senator Cavanaugh. This seems to tie in to that. Is there any sense of collaboration with it or duplication of efforts with that bill?

**ROY HAHN:** Well, you know, I can speak very directly to LB577--

**KAUTH:** Do you know--

**ROY HAHN:** --and I, I will do so. We will-- the Bar Association opposes that bill.

**KAUTH:** OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**ROY HAHN:** And, and the reason we oppose that bill is because it would effectively get rid of the tax deed process. It would effectively get rid of 77, Article 1800 [SIC], so--

**KAUTH:** And, and then this one just amends it-- deals with it so that they get an extra notification.

**ROY HAHN:** That's right.

**KAUTH:** OK.

**ROY HAHN:** That's right.

**KAUTH:** Thank you.

**ROY HAHN:** And so we're trying to make the process fairer. And so that's why we're here.

**KAUTH:** Thank you.

**LINEHAN:** Thank you, Senator Kauth. Senator Bostar.

**BOSTAR:** Thank you, Chair Linehan. Thank you, sir, for coming here today. Could you speak to why the Bar Association opposes this particular set of statutes, the elimination of this particular set of statutes?

**ROY HAHN:** Well, as I just said-- you mean LB577?

**BOSTAR:** Yeah, so why--

**ROY HAHN:** OK.

**BOSTAR:** --can you, can you speak to why the Bar Association is opposed to getting rid of this entire thing?

**ROY HAHN:** Well, just a minute, I-- we're were talking about LB577.

**BOSTAR:** So am I.

**ROY HAHN:** All right. And so the reason we're opposed to LB577 is that the process, if you follow it through, will effectively get rid of the tax deed process. And the reason it would is because LB577 says that the applicant who gets to the treasurer's office cannot get a deed unless the assessed value of the property was less than the value of the redemption of the certificate.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**BOSTAR:** So I, I understand, and, and I'll take your word for it that LB577 would eliminate the ability to get a tax deed.

**ROY HAHN:** That's exactly right.

**BOSTAR:** I, I suppose my question is, why is the Bar Association opposed to getting rid of tax deeds from a, from a philosophical standpoint?

**ROY HAHN:** And by the way, I, I made a little statement of philosophy in that paper I gave you to look at. Two reasons: counties depend upon the sale of tax sale certificate until delinquent tax is paid. That's very important. When the investor buys that tax certificate, he or she needs the ability to realize that lien at maturity. Go to district court or go to, or go to [INAUDIBLE] process. Now, there are many companies who make their livelihood after buying these, on buying these certificates. And for them the process of being able to go to the tax deed process rather than a judicial sale is an alternative. And it's a good alternative. Why? For some reason, some of these, some of these certificates are very low value in dollars. If you have \$1,000 certificate, you want to hire a lawyer to go to district court to close that, why not go the nonjudicial process and get a tax deed. So there's one good reason we need the tax deed process, Article 1800 [SIC]. So we support the idea of allowing the taxes to be purchased by the certif-- by the investors, certificate issued, and give that purchaser an opportunity to recoup its value.

**BOSTAR:** Thank you very much. I, I appreciate hearing from the Bar Association about a bill that we're not actually up, and I thank the committee for allowing my indulgence on this.

**ROY HAHN:** And it just so happens that, that I was a chairman of this committee this year that, that developed the, the process of looking at these bills and so LB577 happened to be one of the ones reviewed. So anyway, thank you.

**BOSTAR:** Thank you, sir.

**LINEHAN:** Thank you, Senator Bostar. Are there other questions from the committee? Seeing none, thank you very much for being here, Mr. Hahn. We're on proponents, right?

**LYLE WHEELER:** Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**LINEHAN:** Are there other proponents? Are there any opponents? I think somebody wants to testify in the neutral position. Are there any neutral position? Good afternoon.

**ANTHONY MEDINA:** Good afternoon. Thank you for the opportunity to appear in front of you. My name is Anthony Medina, M-e-d-i-n-a, and I'm in-house counsel for US Assets. US Assets, the tax certificate purchaser, who is neutral on LB154. The initial draft imposed a time requirement of five days from first publication for a tax certificate purchaser to send out the published notice to the property owner. Timing becomes an issue when dealing with small publications in less populated counties. Typically, US Assets does not receive notice from the publisher until a publication has been completed, which would be too late to send out the notice if LB154 was adopted in its initial form. Now, we've kind of gone neutral on this one since the amendments give us additional time to get the affidavit of publication back from the publisher and it gives plenty of time to, to, to mail that out. But our main concern initially was the, the timing aspect of it. That's about all I have. Do you have any questions?

**LINEHAN:** Yes, I think there will be some. Thank you for being here. Senator Bostar.

**BOSTAR:** Thank you, Chair Linehan. Thank you, Mr. Medina. So I'm just having a hard time understanding why the amendment is necessary. If, if what you're mailing out is just what you submitted for publication and not a demonstration of proof that publication has occurred or has been completed, why can't that be sent in the, in-- per the unamended text of the legislation?

**ANTHONY MEDINA:** I suppose it could. But again, you don't want a technicality. If you give a tax certificate purchaser enough time to do this, like I said, US Assets does not have an issue with sending out the notice. That's not, that's not our position. Our position is that you got to give us time to do it. And giving us that additional time, it's not going to be an issue. It's something that, like I said, in, in the smaller counties, it's difficult sometimes to deal with the, the, the publisher, so. And again, it's published for three consecutive weeks--

**BOSTAR:** Sure.

**ANTHONY MEDINA:** --and then we get that affidavit of publication we can just mail it out.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**BOSTAR:** But the affidavit of publication doesn't seem to be connected to the notice you're mailing.

**ANTHONY MEDINA:** Right.

**BOSTAR:** Maybe this is where I'm--

**ANTHONY MEDINA:** It, it does--

**BOSTAR:** --am I missing something?

**ANTHONY MEDINA:** Well, the affidavit of publication has a copy of what, what was printed, what was, what was printed, a copy of the notice essentially and the affidavit. So--

**BOSTAR:** So we'd, we'd be sending the affidavit as-- to the, the homeowner?

**ANTHONY MEDINA:** You could. I mean, as long as it's--

**BOSTAR:** Is that required?

**ANTHONY MEDINA:** I don't think so, no. But as long as it's-- as long as you have what was printed in the paper and was-- then you just mail it out. That's my understanding. And that's-- and again, our concern was the, the timing of it.

**BOSTAR:** OK. Well, thank you very much.

**ANTHONY MEDINA:** Sure.

**LINEHAN:** Thank you, Senator Bostar. Are there other questions from the committee? I have one. So after the person, after-- whatever, the affidavit, you go to publication, you put it in the paper, then a clock starts ticking for the, for the property owner to respond?

**ANTHONY MEDINA:** I believe at the end of the third publication, then the clock starts ticking. It's 90 days. They'll have 90 days for the final publication to redeem.

**LINEHAN:** So you're buying two weeks-- that's a very important question and I'd like not to be guessing, but absolutely certain. When does the 90-day clock start? And is it the end of the third publication or at the end of the first publication?

**ANTHONY MEDINA:** It's the end of the third publication.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**LINEHAN:** And then the landowner has 90 days from that time.

**ANTHONY MEDINA:** From that date, yes.

**LINEHAN:** And what are the landowner's options at that point?

**ANTHONY MEDINA:** They can redeem the taxes. They can go down to the treasurer and pay them. If they don't--

**LINEHAN:** With penalties, right, or interest?

**ANTHONY MEDINA:** What--

**LINEHAN:** They pay the taxes with interest, whatever--

**ANTHONY MEDINA:** Right. Right. You go down to the treasurer. They would give, give a pay off. This is what's owed. They pay it and then everything would be done. If they don't pay, the tax certificate purchaser can go to the treasurer with a packet of all the noticing, the affidavit of publication and say, you know, I'd like a tax deed.

**LINEHAN:** So I think this is where the rub is. What do you have to pay the treasurer, you don't pay them anymore, you just, you turn in, you redeem your certificate that you bought?

**ANTHONY MEDINA:** As the, the, the owner of the property, those taxes?

**LINEHAN:** No, the person who has the certificate.

**ANTHONY MEDINA:** Right.

**LINEHAN:** The company.

**ANTHONY MEDINA:** Right. In the end it's-- you don't pay anything additional. You say, OK, this is what-- this is the tax deed packet, essentially it's statutory. This is, this is all the noticing that went out, this is an affidavit, and that's your application for a deed.

**LINEHAN:** Do you have any idea how many properties were transferred in Nebraska under this-- these circumstances there were?

**ANTHONY MEDINA:** I, I don't, but I, I believe that, that our company has taken tax deed on about half percent of all the certificates they buy.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**LINEHAN:** But somebody probably has that, maybe we can NACO. OK. Other questions from the committee? Senator von Gillern.

**von GILLERN:** Thank you. Just a follow up to Senator Linehan's question. If the 90 days starts at the end of the third notice than the ten-day period that you speak about is within that 90 days, so, so in effect, the homeowner may, by the time they receive that, that sent on the 10th day, allow several days for mailing, they might receive it on the 15th day, they might only have 75 days to remedy their, their tax situation. Is that correct?

**ANTHONY MEDINA:** That's a good question. I'm not sure. I, I would go by the final publication still, even if it was mailed--

**von GILLERN:** [INAUDIBLE] my question, I'm curious whether that--

**ANTHONY MEDINA:** I see, yeah, I--

**von GILLERN:** --ten days is within the 90 or if the 90-day clock starts at the end of that ten days?

**ANTHONY MEDINA:** And again, as I read the statute, it's at the end of the--

**von GILLERN:** OK.

**ANTHONY MEDINA:** --the third publication--

**von GILLERN:** OK.

**ANTHONY MEDINA:** --would, would be when it starts, even when it's, it's--

**von GILLERN:** All right. Thank you.

**ANTHONY MEDINA:** --it's mailed out.

**LINEHAN:** Thank you, Senator von Gillern. Senator Bostar.

**BOSTAR:** Thank you, Chair Linehan. It just, it-- I can't determine a reason why you couldn't just put it in the mail when, when you submit to publication what the notice text is. Why you couldn't also just put it in the mail at that exact moment to the homeowner the notice as well. It, it feels like this is more of an attempt of compressing the amount of time that a homeowner has available to them to try to at the last moment fix the situation so that their property isn't seized from

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

them. And, and I, I, I hope that's not the case. But I don't, I can't figure out why the initial text isn't, isn't, isn't workable and why ten days after the third notice makes a difference versus five days after the first notice.

**ANTHONY MEDINA:** Well, I, I, I disagree with you and here's why. The, the, the property owner-- as a tax certificate purchaser, you've already tried personal service. You've already sent the sheriff out there to serve them, came back unable to be found. So now certified mail, unclaimed. OK? So attempts have been tried, it is, it's--

**BOSTAR:** Understood.

**ANTHONY MEDINA:** --nothing shady going on here. It's-- attempts have been tried at this address. And the way it's-- this is drafted is that it-- even if you serve them and you have to publish on a different encumbrancer, you still have the mail out to the, to the homeowner which I have issues with that a little bit because it doesn't make any sense. You've already served them. Why are you duplicating efforts? But the-- again, I don't see anything-- any harm in giving the certificate purchaser extra time.

**BOSTAR:** But you've already prepared the notice.

**ANTHONY MEDINA:** Are we, are we prejudicing the owner? I don't think so because we've already tried several times, it's been published. They have notice.

**BOSTAR:** What do you want to do with that time?

**ANTHONY MEDINA:** With what time?

**BOSTAR:** The extra time that you want based on the proposed amendment.

**ANTHONY MEDINA:** It would be to do things right, to make sure we get that published and to make sure we get that notification that it has been published. We don't have-- we don't get papers from every single county saying, OK, this is-- we can send this out now because it was published. [INAUDIBLE] first, we have five days to do it. We don't have that luxury. We don't do that. So just to give us an extra amount of time to get it done right to get it mailed out.

**BOSTAR:** OK. Thank you very much.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**LINEHAN:** Thank you, Senator Bostar. Are there any other questions from the committee? Seeing none, thank you very much for being here.

**ANTHONY MEDINA:** Thank you.

**LINEHAN:** Is there anyone else wanting to testify in the neutral position? Hello. Good afternoon.

**TIM HRUZA:** Good afternoon, Madam Chair. Tim Hruza, last name H-r-u-z-a. I am appearing on behalf of the Nebraska State Bar Association. In follow up to my colleague, who appeared here earlier in the neutral capacity, just to clarify a couple of things, and with all due respect to Mr. Hahn, Mr. Hahn serves on a subcommittee of the real estate, probate, and trust section of the bar that discusses legislation, and, and we invited him here to testify. He's an absolute expert in this subject area, handles these things on a regular basis. He indicated earlier a position of the Bar Association with respect to LB577, which you all have not considered hearing yet, the Bar Association and at the risk of overexplaining goes through a very long process. I spent the entire morning, I spent four hours this morning with our house of delegates, which is a body of a little over 100 attorneys from across the state who are elected by their counterparts to make, make and take positions of the NSBA, including the bill that you have before you today, which the Bar Association has proposed and supports. But with respect to LB577, the Bar Association has considered that legislation. And as of this morning, the house of delegates did take a, a neutral or monitor position on that bill. There will be, and I'm sure you will hear it, that bill makes wholesale changes to this entire process. There will be attorneys on, on both sides of that issue. Mr. Hahn obviously has his, his opinion, which you sort of heard today. He indicated that was the position of the Bar Association. The Bar association has, has taken a more neutral stance with respect to that bill. But I'm sure, as you've heard, Mr. Hahn and his group did have, have some concerns about that legislation and the wholesale changes it made. So just to be clear, with the committee, the NSBA at this point, and it was always subject to change through our processes and procedures, but as of this morning's vote from the house of delegates, which is the speaking body of the Bar Association, there will be a, a monitor or no position on LB577. And, and I would also, for the record, thank Mr. Hahn for his involvement in this bill and testimony. And you may see him at LB577 later on his personal behalf. So I'm happy to answer any questions about the Bar Association's process as well. So thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**LINEHAN:** Thank you, Mr. Hruza. Any questions from the committee?  
Senator Dungan.

**DUNGAN:** Thank you, Chair Linehan. And thank you, Mr. Hruza. So to clarify, what is the Bar Association's position on the bill that we're here for today?

**TIM HRUZA:** The Bar Association supports LB154. Mr. Hahn did appear today on behalf of the Bar Association in support of that legislation.

**DUNGAN:** Thank you.

**LINEHAN:** Did you-- the Bar Association-- I'm sorry, thank you, Senator Dungan-- did the Bar Association support it before and after the amendment?

**TIM HRUZA:** Yes. So the, the bill was prepared on behalf of the attorneys and on behalf of the bar. I asked Senator DeBoer to introduce it. She brought it last year at our request, as well as, as senator or as Mr. Hahn previously testified, it's, it's borne out of a Supreme Court Opinion, a concurring Opinion from Justice Cassel. Oftentimes, lawyers will take those Opinions and, and when a, when a Supreme Court justice recommends, hey, this might avoid a 62-page Opinion, we bring that to the committee. I'm sorry, I might be overstepping my neutral testimony right now, but that, that move or I guess that suggestion from Justice Cassel saying, look, we could have avoided this entire court case had maybe that notice been mailed. The lawyers thought that was a pretty commonsense thing to do, but that's why we supported the legislation.

**LINEHAN:** But my specific question is you--

**TIM HRUZA:** Yes.

**LINEHAN:** --decided to support-- Bar Association supported it before the amendment that was brought to us today.

**TIM HRUZA:** Absolutely, Madam Chair.

**LINEHAN:** Thank you. Any other questions? Thank you very much.

**TIM HRUZA:** Thank you.

**LINEHAN:** Thank you all very much. Are there anybody-- anyone else wants to testify in neutral position? Check letters for the record.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

Senator DeBoer to close. We had one proponent, Carina McCormick [PHONETIC], no opponents, and no neutral.

**DeBOER:** All right. Thank you very much. Usually I get confused for the other Senator Cavanaugh, but today I'll be playing the role of John Cavanaugh, I guess. No. One, one thing is you'll, you'll have a chance to take up the larger question of tax deeds later it sounds like this session, but this one is just making sure that at least someone's getting notice. Understand and I'm sympathetic with the questions that Senator Bostar asks, but if this is a way that we can move this forward, I'm willing to move the bill forward so that we can at least make sure that folks get some notice before their tax sale deed is brought forward.

**LINEHAN:** Are there questions from the committee? I have one. When the sheriff notifies, do they just go tape it on the door or do they have to actually find a person?

**DeBOER:** For-- not the mailing part, but when they, when they're going through the different steps, I think--

**LINEHAN:** Right, at some point the sheriff is supposed to show up and give them notice.

**DeBOER:** So in order for that to be completed notice, if I'm remembering back to my law school days, that request--

**LINEHAN:** Or you can get the answer, you don't have--

**DeBOER:** --that requires an actual hand off to an adult person at the home, may even be the actual person on the name on the thing.

**LINEHAN:** But you can get that clarified for us if it's--

**DeBOER:** I will 100 percent get that clarified.

**LINEHAN:** --somebody at the house or the homeowner or because you can knock on a door and it could be the neighbor or the babysitter.

**DeBOER:** Oh, 100 percent.

**LINEHAN:** Right.

**DeBOER:** Yeah.

Transcript Prepared by Clerk of the Legislature Transcribers Office

Revenue Committee January 27, 2023

Rough Draft

**LINEHAN:** OK. All right. Thanks. Are there any other questions? Thank you very much for bringing this. Appreciate it. With that, we'll close the hearing on LB154 and open the hearing on LB96. Good afternoon, Senator Slama, would you like to open?

**SLAMA:** Yes, I would.

**LINEHAN:** Thank you.

**SLAMA:** Good afternoon, Chairman-- Chairwoman Linehan and members of the Revenue Committee. My name is Julie Slama, J-u-l-i-e S-l-a-m-a, and I represent District 1 in southeast Nebraska. I'm here today to introduce LB96, which would provide a sales and use tax exemption for twine used for baling hay. Just a little bit of background here for those who weren't on the Revenue Committee last year, one of my most outstanding constituents and someone I consider a mentor, he's a predecessor of mine, former Lieutenant Governor Lavon Heidemann, brought to me an issue he was facing and his ag co-patriots were facing in their industry in which they were being charged sales tax for net wrap for round bales of hay about 50 percent of the time. As you might know, Nebraska exempts all ag inputs. It's a form of double taxation. I reached out to the Department of Revenue about this problem and we were told to drop the bill. So I came before this lovely committee last year to drop a bill exempting net wrap when creating-- for agricultural purposes. I erred in failing to include twine used for square bales. So I return to this committee hat in hand to ask that you adopt LB96 to clarify and add that language. In addition, an, an amendment is being passed around. I, I have now included baling wire in this exemption. And if anybody else has any kind of material that we use to make bales of hay, please let me know. And I will add it to the language of this bill. In all seriousness, in all seriousness, though, LB941 clarified a much needed part of our statutes to ensure that our farmers weren't facing unexpected charges of a few hundred dollars in sales tax when they bought their net wrap. We're just clarifying and harmonizing our statutes to cover all forms of baling materials. Thank you, Ms. Chairman.

**LINEHAN:** Thank you, Senator Slama. Are there questions from the committee? Senator Albrecht.

**ALBRECHT:** Thank you, Chair, and thanks for bringing this.

**SLAMA:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

**ALBRECHT:** For some reason, I thought maybe you already had it done last year. I kind of told--

**SLAMA:** I thought we did too.

**ALBRECHT:** --kind of told my farmer friends we did. So you, you just mentioned square bales versus some can be round, some can be square, but you're not putting this in your amendment. It's not in this.

**SLAMA:** In the original--

**ALBRECHT:** You're just talking about livestock [INAUDIBLE].

**SLAMA:** Yes, we're talking about twine and baling wire used for agricultural purposes. The amendment is not a white copy amendment. It's an additional amendment adding that baling wire language.

**ALBRECHT:** OK. So that's this one, AM64?

**SLAMA:** Yes, ma'am.

**ALBRECHT:** OK. So it doesn't really have to specify if it's round or, or square, right?

**SLAMA:** No, we do not have to specify the exact shape--

**ALBRECHT:** Got it.

**SLAMA:** --unless I'm told otherwise.

**ALBRECHT:** You really shouldn't be, but thank you.

**LINEHAN:** Thank you, Senator Albrecht. Are there other questions for Senator Slama? Oh, yes, Senator Dungan.

**DUNGAN:** Thank you, Chair Linehan. And thank you, Senator Slama. With the addition of baling wire in the AM, is that going to affect the fiscal note do you know?

**SLAMA:** It may on a very minimal level. Use of baling wire is relatively uncommon. There are still some farmers that use baling wire, but that machinery is a little bit on the older side, and it's a far less common method of baling hay.

**DUNGAN:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office

Revenue Committee January 27, 2023

Rough Draft

**SLAMA:** Thank you. And technically, it shouldn't be a fiscal note at all because technically ag input should not be taxed anyway. So even if it does, I would question that number.

**LINEHAN:** Thank you, Senator Dungan. Are there other questions from the committee? Seeing none, are there proponents?

**LAVON HEIDEMANN:** Good afternoon, Chairperson Linehan and members of the Revenue Committee. My name is Lavon Heidemann, spelled L-a-v-o-n H-e-i-d-e-m-a-n-n. I'm here to express support on LB96 on behalf of Nebraska ag leaders, which is comprised of Nebraska Cattlemen, Nebraska Corn Growers Association, Nebraska Soybean Association, Nebraska State Dairy Association, Nebraska Farm Bureau, Nebraska Pork Association, and the Nebraska Wheat Growers Association. I was up here last year and I appreciate that you listened and, and you actually-- and I appreciate it very much that it got to the floor and amended into something else. This came to me about a couple of years ago. It was net wrap. I went and got a pallet of it from an implement dealer and they charged me sales tax. And I said I understand that it really shouldn't be sales tax on this. And this person looked at me and said I agree with you. But he said if you have a problem with it, take it the Department of Revenue and get your money back. And it upset me a little bit to be right truthful. And I talked to my senator and she very graciously agreed to carry this bill and, and it passed last year. And then an issue came up with twine. It's the same thing, just like it, it mirrors the same issues with the net wrap. So I think in all fairness and to if there's any confusion, I think it'd be well for this committee to actually pass this bill to look at it and hopefully pass this bill to clarify things so there isn't this confusion. And I don't know how many times in my life, it just happened to me again, I had a dispute with an electrician that had did some work for me and I said there shouldn't be sales tax on it. And he says, well, he says I don't really understand it. And he says, I'll be right truthful with you, I just charge sales tax on everything unless somebody complains. And I kind of have an issue with that. I mean, there's some people probably get trouble because they don't charge it. And I think there should be some people get in trouble because they do charge it to be right truthful. So I hope you take a look at this bill. And I appreciate Senator Slama very much what she does. And on a personal note, I want to say also that I appreciate what you guys did-- this committee did last year. There's a lot of new faces here, but you guys did leaps and bounds on tax issues last year. And I thank you very much for that. If you have any questions, I would be-- try to answer them.

**LINEHAN:** Thank you very much for being here. Are there questions from the committee? So did-- just a second, on the electrician, because I'm trying to remember, you paid sales tax on whatever they have to use to fix something, but not on their labor?

**LAVON HEIDEMANN:** Well, they actually-- he was charged with sales tax on labor too. This issue I was talking about that just happened to me was with ag equipment parts is-- are exempt now and he was charging them and I said you probably shouldn't because it's ag equipment parts and he says it was on a piece of equipment that actually could be used-- it was a water-- to water cattle for us. And he was fixing and he says what do you do though, Lavon, if somebody is using it for horses for recreational purposes? And then I began to understand that there is confusion there because one instance, probably it should be charged, shouldn't be charged sales tax in my instance because I use it to raise cattle. But if somebody uses it to raise horses for just for pleasure, probably they should charge sales tax on the same exact piece of equipment.

**LINEHAN:** OK. That's sort of helpful.

**ALBRECHT:** Confusing.

**LINEHAN:** The next question would be if they're charging sales tax, are they remitting the sales tax?

**LAVON HEIDEMANN:** Oh, I'd have to think so. They're covering, they're covering themselves.

**LINEHAN:** OK.

**LAVON HEIDEMANN:** They're just charging-- if there's confusion on their part, and this has happened to me not more than once or twice, but probably three or four times I literally call them out on it, and they literally say to cover our own self, we just charge it and send it in.

**LINEHAN:** OK. OK. Any other questions from the committee? Seeing none, thank you very much.

**LAVON HEIDEMANN:** Thank you, Chairperson.

**LINEHAN:** You're welcome. Other proponents?

**PHIL ERDMAN:** Senator Linehan, members of the Revenue Committee, my name is Phil Erdman, P-h-i-l, Erdman, E-r-d-m-a-n. I am the director

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 27, 2023  
Rough Draft

of dealer and government relations in Nebraska for the Iowa-Nebraska Equipment Dealers Association, and we're here in support of LB96 as well. We also want to thank Senator Slama for introducing her bill. As you heard from former Senator Heidemann, LB941 last year, which ultimately was amended into LB984, included the sales tax exemption for net wrap. Our request on behalf of our equipment dealers who sell both net wrap and twine would be to treat the two items similarly and to provide that consistency in statute for our members and the customers that they serve. And if you have questions, I'll do my best to answer. But I will also state for the record, I understand having two Erdmans at this microphone on the same day may be overwhelming to some. And so I will be--

**LINEHAN:** I think we can handle it.

**PHIL ERDMAN:** OK, just want to make sure.

**LINEHAN:** All right. Are there any questions from the committee? Seeing none, thank you very much for being here.

**PHIL ERDMAN:** Thank you. Appreciate the opportunity.

**LINEHAN:** Appreciate it. Are there other proponents? Are there any opponents? Anyone wanting to testify in the neutral position? Senator Slama, would you like to close? And I do think we have letters for the record. Sorry, let me get to them. We're all mixed up here. I think I got numbers here. Carina McCormick [PHONETIC], I guess, is a proponent. We might have a little confusion on this which we'll work out later.

**SLAMA:** That's OK. I'll be brief with my close. I, I do appreciate the work the Revenue Committee has done the last few years. But I dare say LB96, aside from the billions of dollars of tax relief you've provided for Nebraskans, LB96 may be the most consequential bill this committee handles, so. Thank you very much for your consideration [LAUGHTER] and I hope you support LB96. Thank you.

**LINEHAN:** Thank you, Senator Slama. With that, we bring the hearing to a close on LB96. Everybody, have a great weekend.

**DUNGAN:** Thank you.